

IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

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UNITED STATES OF AMERICA)
)
v.)
)
MONA RHOE,)
)
 Defendant.)
)

CASE NO. CR405-286

m. James

O R D E R

Before the Court is Defendant Mona Rhoe's 18 U.S.C. § 3582(c)(2) "Motion of Petitioner for Modification or Reduction of Sentence Based upon an Intervening Post-Sentencing Change in the United States Sentencing Guidelines Pertaining to Corollary Criminal History Category (Amendment 12) Which Effectively Lowers Petitioner's Term of Imprisonment." (Doc. 53.) For the following reasons, Defendant's Motion is **DENIED**.

Defendant pled guilty to one count of distribution of 5 grams or more of cocaine base on January 25, 2006. On April 10, 2006, Defendant was sentenced to 84 months imprisonment for that crime.

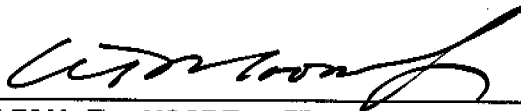
On June 27, 2008, Defendant filed this motion arguing for a reduction of her sentence under 18 U.S.C. § 3582(c)(2) on the basis of "Criminal History Category (Amendment 12)" relating to certain rules used to calculate a defendant's criminal history score.¹ 18 U.S.C. § 3582(c)(2) authorizes a retroactive reduction

¹ The Court is unaware of a "Criminal History Category (Amendment 12)" to the Sentencing Guidelines. However, Defendant describes the contents of this amendment and appears to be referring to Amendment 709 to the Sentencing Guidelines. See U.S. Sentencing Guidelines Manual app. C, amend. 709 (Supp. 2007). Therefore,

in a defendant's sentence for a later amended sentencing guideline only if that amendment is included in Federal Sentencing Guideline § 1B1.10(c). See U.S. Sentencing Guidelines Manual § 1B1.10 cmt. 1.(A).

Currently, the list provided in § 1B1.10(c) does not include Amendment 709. Therefore, 18 U.S.C. § 3582(c)(2) does not authorize a sentencing reduction. Accordingly, Defendant's 18 U.S.C. § 3582(c)(2) Motion is DENIED.

SO ORDERED this 2ND day of September, 2008.



WILLIAM T. MOORE, JR., CHIEF JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA

this Court will address Defendant's Motion understanding references to "Criminal History Category (Amendment 12)" as references to Amendment 709.